

(g) All Army installation commanders with active Army manpower assets have responsibilities for reporting and returning deserters to military control.

(1) Coordinating installation commanders return of deserters to military control within their designated areas of responsibility.

(2) Supporting installation commanders have responsibility for all locations within 50 miles of their respective installations. When efficiency and economy demand, these distances can be increased or diminished as determined between the coordinating installation and the supporting installation.

(h) Installation provost marshals will endeavor or resolve procedural arrangements at the lowest command level IAW AR 5-9.

## Subpart B—Absent Without Leave

### § 630.5 Notification.

(a) The unit commander notifies the local provost marshal within 24 hours after a soldier has been reported absent without leave (AWOL). Special category absentees are reported as deserters IAW § 630.10 of this part.

(b) On receipt of an AWOL report, the provost marshal initiates a DA Form 3975 (Military Police Report) and a corresponding blotter entry on DA Form 3997 (Military Police Desk Blotter).

### § 630.6 Surrender to unit commander.

If an AWOL soldier surrenders to the parent unit the following procedures apply:

(a) The unit commander immediately notifies the Provost Marshal that the soldier has returned.

(b) The provost marshal finalizes the DA Form 3975 and makes a reference blotter entry. The provost marshal forwards DA Form 3975 and 4833 (Commander's Report of Disciplinary or Administration Action) with an appropriate suspense date through the appropriate field grade commander to the unit commander for action.

(c) The unit commander reports action taken to the provost marshal on DA Form 4833 not later than the assigned suspense date.

### § 630.7 Surrender or apprehension at other installations.

(a) If an AWOL soldier surrenders to or is apprehended by a provost marshal other than the parent installation, the apprehending provost marshal

(1) Issues DD Form 460 (Provisional Pass) IAW AR 190-45, paragraph 5-2, and verbal orders to the soldier to return to their proper station. The DD Form 460 and transportation requests are used instead of an escort if there is a reasonable expectation that the soldier will comply. Express mail may be used to forward the DD Form 460 to the absentee. DD Form 460 will not be required if the provost marshal elects to return the soldier through different means.

(2) Prepares and forwards DA Forms 3975 and 4833, along with a copy of DD Form 460 to the parent installation provost marshal.

(b) The parent installation provost marshal—

(1) Completes a reference blotter entry reflecting the AWOL soldier's RMC.

(2) Forwards DA Form 3975 and DA Form 4833, with an appropriate suspense, through the field grade commander to the unit commander.

(3) On return of the completed DA Form 4833 from the unit commander, forwards the original and one copy of the form to the apprehending provost marshal. The parent installation Provost Marshal may retain a copy of DA Form 3975 and DA Form 4833 pertaining to the case.

## Subpart C—Desertion

### § 630.8 Administrative report.

(a) The unit commander administratively classifies an absentee as a deserter and completes DD Form 553 when one or more of the following applies:

(1) The facts and circumstances of the absence, without regard to the length of absence, indicates that the soldier may have committed the offense of desertion, as defined in articles 85 and 86 of the Uniform Code of Military Justice (UCMJ).

(2) The soldier has been AWOL for 30 consecutive days.

## § 630.9

## 32 CFR Ch. V (7-1-97 Edition)

(3) The soldier, without authority, has gone to or remains in a foreign country and while in the foreign country has requested, applied for, or accepted any type of asylum or resident permit from the country, or any governmental agency.

(4) The soldier has returned to military control and departs absent prior to completion of any administrative or judicial action for a previous absence.

(5) The soldier escapes from confinement.

(6) The soldier is a special category absentee.

(b) The unit commander promptly reports deserters to the provost marshal via DD Form 553 per AR 630-10, chapter 3.

### § 630.9 Processing deserter reports.

(a) On receipt of reports of desertion or defectors, the Provost Marshall completes a blotter entry per AR 190-45, paragraph 4-6b. This is an initial blotter entry if a previous absentee entry had not been made.

(b) The Provost Marshal then—

(1) Ensures that the unit commander has accurately completed DD Form 553.

(2) Screens installation and state vehicle registration and completes identification portions of the DD Form 553.

(3) In the remarks section of DD Form 553 adds other known information about the soldier such as:

(i) Confirmed or suspected drug abuse.

(ii) History of violence.

(iii) History of escapes or attempted escapes from custody.

(iv) Suicidal tendencies.

(v) Suspicion of involvement in violent crimes for which there is a record of an active military police investigation being prepared and forwarded.

(vi) History of other unauthorized absence.

(vii) Any other information in the apprehension process or to protect the deserter or apprehending authorities.

(4) Initiates a DA Form 3975, if not previously completed as an AWOL report, and assigns a USACRC Crime Control Number to the case.

(5) Returns the completed DD Form 553 to the unit commander within 24 hours. The provost marshal retains a copy of the DD Form 553.

(6) Follows the procedures in section 630.8 of this part for special category absentees.

(c) Within 48 hours of the soldier being dropped from the rolls (DFR) of the unit, the unit commander forwards the DD Form 553, with associated documents, through the Personnel Service Battalion to Commander, U.S. Army Enlisted Records Center, ATTN: PCRE-RD, Indianapolis, Indiana 46249-5300.

### § 630.10 Special category absentees.

Commanders of absent soldiers assigned to special mission units and soldiers who have had access to top secret information during the 12 months preceding the absence immediately report the soldier as a deserter regardless of the length of absence. On receipt of a special category absentee the provost marshal—

(a) Immediately completes the procedures in § 630.6 of this part.

(b) Queries the NCIC missing person, interstate identification, and unidentified person files for a possible match using the absentee's identifying information (Social Security Number, date and place of birth, and physical description) to determine if he or she has been previously entered into the NCIC.

(c) Enters the soldier into the NCIC wanted file after determining the soldier has not been entered previously. Outside continental United States (OCONUS) Provost Marshal NCIC entries are completed by sending a copy of the DD Form 553 to the USACRC facsimile machine Defense System Network (DSN) 656-0395 or commercial (301) 806-0395. OCONUS Provost Marshals who do not have facsimile equipment express mail the DD Form 553 to Director, USCRC, ATTN: CICR-ZA, 6010 6th Street, Fort Belvoir, VA 22060-5585.

(d) Requests the assistance of the Director, USACRC, in obtaining pertinent information from security records maintained by the DIS.

(e) Requests assistance of the U.S. State Department, in identifying and suspending existing passports and pending applications pertaining to the deserter. This includes transmitting a copy of the DD Form 553 by facsimile or express mail to the U.S. State Department, Deputy Assistant Secretary for Passport Services, ATTN: CA-PPT-

## Department of the Army, DoD

## § 630.13

C, McPherson Building, 1425 K Street NW., Washington DC 20524. A point of contact in the provost marshal office must be provided for the U.S. State Department. The facsimile commercial telephone number is (202) 326-6271.

(f) Notifies USACIDC, local FBI office, and local and State law enforcement agencies of the soldier's absence to establish an investigative task force. The task force acts as the focal point in collecting and disseminating information obtained through investigative activity.

(g) Requests assistance from the nearest Air Force Office of Special Investigation (OSI) to determine if the absentee has been granted passage on a Military Airlift Command (MAC) Flight. Notification is also made to Headquarters, MAC, to deny passage on a MAC, flight by calling Office of Special Investigations, Scott Air Force Base, Illinois, DSN 576-5413 or commercial 618-256-5413.

(h) Transmits an electronic alert through the National Law Enforcement Telecommunications Systems (NLETS) to broadcast within the State, a specific State, and or regional broadcast (contiguous five States). NLETS messages must include the deserter's complete name, social security number, date and place of birth, physical description, and a statement that an entry has been made into the NCIC.

(i) Coordinates with the Office of the Staff Judge Advocate to obtain search warrants, court orders, or subpoenas for searches of the deserter's residence, financial, credit card, postal, telephone, insurance, housing utilities, civilian medical records, and access to commercial land, air and sea transportation records.

(j) Cancels the NCIC entry when notified by Chief, USADIP that the deserter packet has been received and the Chief, USADIP, is prepared to assume responsibility as the point of contact for verification of deserters.

### § 630.11 Escaped prisoner.

(a) An escaped prisoner whose discharge has not been executed is administratively classified as a deserter. The installation Provost Marshal—

(1) Requests assistance from civilian law enforcement agencies including the FBI.

(2) Forwards copies of DD Form 553 to Chief, USADIP, showing distribution with Item 10 marked "N/A."

(3) Enters a temporary warrant into the NCIC.

(b) An escaped military prisoner whose discharge has been executed and who is not under the custody of the U.S. Attorney General is reported as an escaped military prisoner, not a deserter. The custodian of an escaped military prisoner's personnel records prepares DD Form 553 clearly stating in items 12 and 19 that the individual is an escaped military prisoner. The DD Form 553 is sent to the installation provost marshal. A temporary warrant is entered into the NCIC by the installation provost marshal.

### § 630.12 USADIP procedures.

(a) The Chief, USADIP—

(1) Verifies information on the DD Form 553 with permanent personal records at the USAEREC.

(2) Enters the soldier's name into the NCIC.

(3) Forwards a copy of the DD Form 553 to all Federal, State and local law enforcement agencies who may be involved in the apprehension process.

(4) Forwards a copy of DD Form 553 to the provost marshal nearest the deserter's home of record.

(5) Forwards a copy of the DD Form 553 to the USACRC, ensuring the USACRC control number is legible.

(b) The Army entry into the NCIC wanted person file normally is generally sufficient to support civilian police apprehension assistance.

## Subpart D—Return to Military Control

### § 630.13 AWOL/deserter apprehension efforts.

The return of absentees to military control is a command responsibility. Military police will generally not be committed to proactive efforts to apprehend AWOL soldiers or deserters except when the provost marshal determines that such efforts are warranted by specific circumstances. Examples of

instances when such effort is warranted include when the AWOL soldier or deserter is wanted as the subject of additional more serious charges or is a special category absentee as defined in § 630.8 of this part.

**§ 630.14 Use of escorts.**

(a) Commanders and provost marshals must ensure that the most economical and efficient means are used to return surrendered or captured absentees to their parent unit or personnel control facility as appropriate. For example, alternatives such as express mailing of DD Form 460 and a transportation request may be used instead of an escort if there is a reasonable expectation that the absentee will comply.

(b) The use of escorts should be considered if—

(1) There is not a reasonable expectation that the absentee will not comply.

(2) The absentee is a special category absentee IAW § 630.8 of this part.

(3) The absentee is pending serious criminal charges.

(4) The absentee is in the custody of a civilian law enforcement agency that is not willing to assist in processing the absentee by mail or similar means.

(c) When escorts are deemed necessary, consideration should be given to using noncommissioned officers from the parent unit before committing military police manpower.

**§ 630.15 Verification of deserter status.**

(a) When a person claims to be a deserter from the U.S. Army, the first receiving military authority must advise the person of his or her right per article 31 UCMJ and provide as much of the following data as possible to the provost marshal:

(1) Name.

(2) Social security number.

(3) Date and place of birth.

(4) Home of record.

(5) Date and place of enlistment, date of alleged absence, and unit of assignment.

(b) The provost marshal immediately completes a check of the NCIC and USADIP to confirm the deserter status. Deserter felon checks require:

(1) The full name of the person.

(2) Social security number.

(3) Date of birth.

(4) Place of birth.

(5) Military service number if different from the social security number.

(c) When necessary to establish identity at the request of the Chief, USADIP, the installation provost marshal forwards DD Form 369 (Police Record Check) with a complete set of fingerprints to the Commander, U.S. Army Enlisted Records Center, ATTN: PCRE-RD, Indianapolis, IN 46249-5301. The fingerprints must also be accompanied by DD Form 616 in quadruplicate. In Item 9 of the DD Form 616 note: "For Information Only—Fingerprints attached." The Chief, USADIP forwards the fingerprint record to the FBI Identification Division, Washington, DC 20537-8700 for fingerprint comparison and identification.

(d) In the event the status of the individual can not be immediately determined, the individual will not be detained. The Provost Marshal obtains information on how to contact the person once their status has been determined. On verification of status as absent or desertion, Chief, USADIP, provides instructions to the provost marshal returning the individual to military control.

**§ 630.16 Surrender or apprehension on parent installation.**

(a) The parent installation provost marshal—

(1) Verifies the deserter's military status IAW § 630.13 of this part.

(2) Coordinate between appropriate levels of command on RMC (time, date, and location).

(3) Initiates a reference blotter entry changing the absentee's status from deserter to return to military control.

(4) Prepares and submits DD Form 616 to Chief, USADIP. The USACRC control number assigned to the DD Form 553 is included in the remarks section of DD Form 616.

(5) Prepares DA Form 3975, 2804 (Crime Records Data Reference) and 4833. The USACRC control number assigned to the DD Form 553 is also used on these forms.

(6) Forwards the original DA Form 3975 and 2804 to the Director, USACRC.

(7) Forwards three copies of DA Form 4833, with an appropriate suspense date, and one copy of DA Form 3975 to

## Department of the Army, DoD

## § 630.19

the PCF commander or installation commander processing the deserter.

(8) On receipt of the completed DA Form 4833 forwards the original to Director, USACRC.

(b) Should the deserter surrender to the original unit of assignment, the unit commander immediately notifies the provost marshal of the deserter's return. The provost marshal completes the processing in paragraph (a) of this section.

### **§ 630.17 Surrender or apprehension at another installation.**

(a) The provost marshal follows the procedures in § 630.17 and obtains the USACRC control number from Chief, USADIP for use in completing the DD Form 616 and DA Form 2804, 3975, and 4833.

(b) The unit commander requesting return of the absentee completes arrangements for escorting the absentee, if required. Other absentees are sent to a PCF.

### **§ 630.18 Surrender or apprehension off an Army installation.**

Commanders located off an Army installation—

(a) Notify the major Army command or coordinating installation provost marshal, within whose area of responsibility the activity is located.

(b) Furnish the coordinating installation provost marshal all available information on the absentee or deserter.

(c) Issue a DD Form 460 and direct the person to proceed to the nearest Army installation with facilities for processing deserters. If appropriate, express mailing of DD Form 460 and a transportation request may be used.

(d) Forward a copy of the DD Form 460 to Commander, U.S. Army Enlisted Records and Evaluation Center, ATTN: PCRE-RD, 8899 East 56th Street, Indianapolis, IN 46249.

(e) Follow up to ensure that all absentees and deserters are returned to military control.

### **§ 630.19 Deserters and defectors in foreign countries.**

(a) Army deserters and defectors in foreign countries are apprehended only in accordance with applicable Status of Forces or other station agreements,

AR 27-50, U.S. and host country law, and the directives of the overseas command.

(b) Direct coordination between all major overseas commanders, U.S. Air Force, U.S. Navy, U.S. Marine Corps and CONUS installations is conducted to coordinate information for return of deserters or defectors to military control. Defectors and special category absentees must be escorted from the time of their return to military control to the installation or PCF with area of responsibility for processing deserters. Deserters returned to military control are processed under procedures set by the major overseas commander.

(c) When a deserter or defector is reported to have been returned to military control at another service installation, the Army area provost marshal arranges for return of the deserter to U.S. Army custody. Maximum use of the DD Form 460 should be made.

(d) When absentees and deserters in foreign countries are scheduled to depart or are to be deported from foreign countries, the Military Assistance Advisory Group (MAAG) mission or attaché notifies Chief, USADIP, and if known the appropriate major commander, ATTN: Provost Marshal. Notification should be completed in advance for coordination of operational military police actions. The notice includes the—

(1) Name, grade, and social security number of the absentee.

(2) Date, time (local), and place of departure from the foreign country.

(3) Mode of transportation and designation of the carrier.

(4) Date, time and place of arrival in CONUS or where U.S. Authorities have jurisdiction to apprehend the absentee or deserter.

(5) Unit in which the individual is or was last assigned.

(6) Length of time in foreign country.

(7) Physical and mental condition and attitude of the absentee or deserter.

(8) Charges by military or civil authorities.

(9) Intelligence interest.

**§ 630.20 Escaped military prisoner.**

(a) When an escaped military prisoner is returned to military control, the provost marshal—

(1) Notifies the commander of the confinement or correctional facility from which the prisoner escaped.

(2) Completes and forwards DD Form 616 to Chief, USADIP.

(b) Unless otherwise directed by HQDA (DAMO-ODL), or the Commander, U.S. Army Disciplinary Barracks (USDB), prisoners who escape from the USDB are returned to the USDB. The commander of the installation to which the prisoner is returned provides guards and transportation to the nearest supporting confinement facility to return the prisoner to the USDB.

(c) Escapees from other U.S. Army correctional activities are returned to the confinement or correctional facility from which the prisoner escaped unless otherwise directed by HQDA (DAMO-ODL).

(d) The chief, USADIP forwards DD Form 616 to recipients of DD Form 553.

**§ 630.21 Other armed services deserters.**

(a) Requests for status of alleged deserters from other Armed Services may be made through an inquiry in the NCIC. When the response from the NCIC is negative, the following appropriate Service may be contacted:

(1) U.S. Air Force. Commander, U.S. Air Force Military Personnel Center, Randolph Air Force Base, TX 78150-6001, DSN 487-5118.

(2) U.S. Navy. Commander, Naval Military Personnel Command, Code NMPC-843, Washington, DC. 20370-5643, DSN 224-2551 or commercial, toll free 1-800-336-4974.

(3) U.S. Marine Corps. Commandant of the Marine Corps, Corrections Branch (MHC), Headquarters, U.S. Marine Corps, Building 2008, MCCDC, Quantico, VA 22130-5000, DSN 278-3976.

(b) When Army absentees or deserters are received from civil authorities in CONUS, all military absentees, and deserters, regardless of the military service to which they belong, are transported at the same time.

(c) Unless there are specific arrangements among the military services, the

following applies when Army personnel take custody of absentees or deserters from civil authorities in CONUS:

(1) Notify the other military authorities in advance that the individual will be taken into custody and delivered to the nearest military installation having facilities to process absentees or deserters.

(2) When custody cannot be affected, notify the nearest installation of the service concerned that the person will remain in civilian custody.

(d) Absentees and deserters from the other services and the Coast Guard may be received at any U.S. Army installation which has facilities for reception and custody. They are transferred immediately to the nearest appropriate installation of the Service. Commanders of troops on maneuvers or on the march are exempt from the responsibility for taking custody of absentees and deserters. They may, however, accept absentees or deserters if necessary and return them to the custody of their Service.

**§ 630.22 Transportation.**

(a) If commercial transportation is necessary:

(1) The responsible transportation office arranges for movement per AR 55-355.

(2) Cost and speed of transportation are considered.

(3) International and CONUS travel is arranged only on U.S. commercial air carriers flying regularly scheduled routes, certified route carriers, supplemental air carriers, or charter air taxi operations.

(4) Military personnel escorting absentees or deserters must comply with commercial air carrier rules and with AR 190-47.

(5) Expenses (transportation, reward payment, reimbursement to civilian law enforcement authorities) associated with the return of absentees or deserters to their proper station are chargeable to the Military Personnel, Army Appropriation. Commanders are authorized to make charges against these accounts for the transportation of escorts and the deserter and for payment of required or reimbursement

when the returnee is delivered to an installation or detained for military authorities.

(6) The approving authority reviews paid travel and per diem vouchers for efficiency, economy, and accuracy in statements of travel performed. When feasible, one-day return travel should be used to reduce costs.

(b) Transportation expenses for use of guards to return absentees or deserters to their proper station or to military authorities are charged to the budget activity account "Other Military Personnel Costs."

### Subpart E—Civilian Correctional or Medical Facilities

#### § 630.23 Military detainer.

(a) Military detainer (see sample detainer at Figure 630.1 of this part) must be placed when a soldier is being held by civilian authorities and release of the soldier is not imminent. The installation commander or provost marshal may initiate a detainer. The purposes for filing a detainer are to—

(1) Officially inform civilian authorities that any Army soldier is in their custody and military authorities want to assume custody at release.

(2) Request military authorities be kept advised on the status of actions taken by civilian authorities.

(3) Permit military authorities to monitor the person's military status while in civilian custody.

(b) A detainer is canceled when the person is released to military custody.

(c) If an AWOL or DFR individual is being detained by civilian authorities the military police

(1) Notify the proper installation commander or coordination authority at once that the individual—

(i) Is being detained by civilian authorities on civil or criminal charges.

(ii) Is committed to a civilian medical facility.

(2) Place a military detainer with the civilian law enforcement agency and inform the installation commander or coordinating authority of—

(i) Changes or medical problems concerning the absentee.

(ii) Probable length of detention by civilian authorities.

#### § 630.24 Action on return to military control.

(a) The military authority first receiving or apprehending the absentee or deserter, or receiving word of their detention by civilian authorities, immediately contacts the installation or area provost marshal and provides the following data.

(1) Name, grade, and social security number of the absentee.

(2) Date absence began and unit from which absent.

(3) Absentee, deserter, or escaped prisoner status.

(4) Date, place, and military unit or civilian agency where the person was apprehended, surrendered, or detained.

(5) Unit to which the absentee or deserter will be assigned or attached on return.

(b) When military law enforcement personnel are the first military authority receiving a report of an AWOL or DFR person's apprehension or surrender the following actions are also taken:

(1) Initiate an inquiry with the NCIC. When the NCIC inquiry shows the individual is wanted by civilian law authorities for a criminal offense, immediately contact the civilian agency. Advise the civilian agency of the individual's location and where the return to military control will be made. Place the results in item 9 of DD Form 616 and send it to the commander receiving the returnee. All Army returnees wanted for a criminal offense other than AWOL or desertion are reported to Commander, U.S. Army Criminal Investigation Command, ATTN: CICR-ZA, 6010 6th Street, Fort Belvoir, VA 22060-5585 to ensure that military law enforcement investigations or criminal charges are not pending.

(2) When the individual is not wanted for a criminal offense, coordinate RMC with the appropriate military personnel office and take action in paragraph (c) of this section.

(c) Absentees and deserters being held temporarily by civilian authorities are returned to military control as soon as possible. Military authorities should strive to return absentees or deserters to military control within 48 hours after being notified of their whereabouts and impending release.

**§ 630.25 Civilian detention facilities.**

(a) When necessary, civilian detention facilities may be used to temporarily detain absentees, deserters or escaped military prisoners. Contracts providing for payment of actual costs for detention may be made with state or county jails that have been approved by the Bureau of Prisons. U.S. Department of Justice information about approved facilities is available from the nearest U.S. Marshal's office.

(b) Contracts must contain standards of treatment of military prisoners per AR 190-47, The Federal Acquisition Regulation (FAR), The Federal Acquisition Supplement (FAS), and the Army Procurement Procedure Supplement (APPS) govern these contracts.

**§ 630.26 Costs of civilian detention facilities.**

(a) Civilian authorities may be reimbursed according to contracts for temporary detention after military authorities have assumed custody. It does not authorize payment from the date further detention was requested. This does not authorize payment for subsistence and detention for the same period for which a reward was authorized. This does not preclude payment of reward or reimbursement for reasonable expenses for periods before delivery to military custody. Detained officers receiving basic allowance for substance (BAS) are charged the cost of substance.

(b) Costs incurred by the Army for detention under an Army contract are paid to the civilian facility. Any payment to the Army by another Armed Service must be by prior agreement between the commanders concerned.

**Subpart F—Payment of Rewards and Reimbursements**

**§ 630.27 Rewards.**

(a) Receipt of an authorized communication, oral or written (for example DD Form 553 and entry into the NCIC) from a military or Federal law enforcement official or agency, requesting cooperation in the apprehension or delivery to military control of an absentee or deserter wanted by the Armed Forces constitutes the basis for a reward.

(b) A reward can be paid to an eligible person or agency who apprehends and detains an absentee or deserter until military authorities assume control. The finance and accounting officer designated by the MACOM commander pays the claimant. If two or more eligible persons or agencies are entitled to a reward, the payee may divide the payment among the participants. Payment for an apprehension effected jointly by an eligible and ineligible person or agency may be claimed by the eligible person or agency. Ineligible persons may not share in payments.

(c) Payment of a reward to persons or agencies is authorized as indicated below:

(1) A reward for apprehension and detention of an absentee or deserter until military authorities assume custody.

(2) A reward for apprehension of an absentee or deserter and subsequent delivery to a military installation with facilities to receive and process absentees and deserters.

(d) The reward may not exceed the amount specified in the current defense appropriation account for—

(1) The apprehension and detention of absentees or deserters until military authorities take custody.

(2) The apprehension and delivery to military authorities of absentees or deserters.

(e) A reward or reimbursement for expenses is not authorized for an Armed Service member, Federal government employees, a lawyer on whose advice an absentee or deserter surrenders, or when payment would violate public policy.

**§ 630.28 Reimbursement payments.**

(a) Reimbursement payments to official agencies is authorized when—

(1) A reward has been offered.

(2) Reimbursement is requested in place of a reward.

(b) Reimbursement for reasonable and actual expenses may be made to more than one eligible person or agency. However, total reimbursement for the return of an absentee or deserter may not exceed the amount authorized for reward.



## Department of the Army, DoD

## § 630.32

(c) Dual payment (reward and reimbursement) relating to one absentee or deserter is prohibited.

(d) Official transportation and personal services payment are not made for—

- (1) Transportation by official vehicle.
- (2) Personal services of the claimant.
- (3) Apprehension and detention not followed by return to military custody.

### § 630.29 Documentation.

(a) Payment of reward or reimbursement for expenses is documented by processing Standard Form 1034 (Public Voucher for Purchase and Services Other Than Personal). The following information must be provided on SF 1034 or supporting documents:

(1) Name, social security number, and last duty station (DD Form 553 or DD Form 616) of the absentee.

(2) Date, place of arrest, and place of return to military custody (DD Form 616).

(3) Signed statement by claimant that the agency qualifies for a reward under paragraph (a), (b), or (c) of this section.

(4) Statement signed by military representative documenting either of the following:

(i) Delivery to a military installation with facilities to receive and process absentees and deserters.

(ii) Military custody assumed at a site other than a military installation or facility.

(5) Army forms provided to claimants to support payment request.

(b) When required, military pay vouchers are prepared for absentees and deserters per AR 37-104-3, paragraphs 80310, 80311, and 80313.

## Subpart G—Surrender of Military Members to Civilian Law Enforcement Officials

### § 630.30 Overview.

(a) This chapter establishes provost marshal procedures and responsibilities for the surrender of soldiers to civilian law enforcement authorities. It is the policy of the Department of the Army to cooperate with civilian authorities unless the best interest of the Army will be prejudiced.

(b) Provost marshals assist in the delivery of a soldier to civilian authorities per this regulation and applicable personnel management regulations. AR 630-10, Chapter 7, provides personnel management policies and procedures on the surrender of soldiers to civilian authorities.

### § 630.31 CONUS.

(a) Generally, provost marshal activity is limited to ensuring that a military detainer is prepared and signed when surrendering a soldier to civilian law enforcement officials (see figure 630.1 of this part).

(b) There is no statutory authority for a commander to deliver a soldier to a bail bondsman or surety. The surety must coordinate with the installation Staff Judge Advocate and the Commander of the soldier prior to attempting to apprehend the soldier. To preserve peace and order on the installation, military police will accompany the surety to observe the surety taking custody of the soldier.

### § 630.32 Responsibilities.

(a) In foreign countries, the authority of U.S. military personnel to apprehend, detain and deliver U.S. personnel to civil authorities of foreign countries is governed by the provisions of international agreements. AR 27-50, and the laws of the host nation. The extent of the authority in a particular country is determined from directives published by the OCONUS MACOM Commander.

(b) Chief, DAMO-ODL—(1) Coordinates approved requests for surrender of the soldier with the civilian law enforcement agency or prosecuting attorney's office requesting surrender of the soldier. Transportation costs of the soldier from the point of debarkation are the responsibility of the requesting agency.

(2) Coordinates surrender of the soldier with the felony warrant or extradition division of the civilian law enforcement agency or Federal law enforcement agency at the point of debarkation.

(3) Contacts the CONUS installation provost marshal with area of responsibility for assistance in the surrender of the soldier.

(c) MACOM Provost Marshal—(1) If requested by the General Court-Martial convening authority or designee, arranges escort of the soldier to the point of embarkation or debarkation in CONUS.

(2) Notifies Chief, DAMO-ODL, of the departure date, time, flight number, and the name of the individual(s) who will escort the soldier, if applicable.

(d) CONUS Provost Marshal with area of responsibility—(1) Prepares a military detainer for the soldier to be surrendered.

(2) Meets the aircraft, assists in the surrender of the soldier, and presents the military detainer.

(3) Provides a copy of the detainer and attachment order to the commander of the PCF or the unit to which the soldier will be attached.

#### FIGURE 630.1 OF PART 630—SAMPLE MILITARY DETAINDER

I, (name of civilian representative) an official agent representing (name and address of civilian jurisdiction), accept custody and control of (grade, name, social security number), a U.S. Soldier, for trial on a charge (state offense(s)), I agree, on behalf of the jurisdiction named above, to inform the Commander, (installation address), of results of the judicial process and to return the soldier at no expense to the Army or the soldier to said Army installation unless a place nearer the civilian jurisdiction is designed by Department of the Army. The soldier will be returned immediately on dismissal or other disposition of charges facilitating return of the soldier. When disposition precludes immediate return of the soldier following litigation, I will furnish results of the judicial process and information concerning the earliest possible date the soldier might be returned to Army control. I will also advise the designated commander whenever the location of incarceration of the soldier changes or whether soldier is released on bail or bond. I understand the above commander will advise the civilian jurisdiction which I represent if the soldier's return to military custody is no longer desired. I was furnished a copy of this agreement on (date).

(signature)

(position)

(name of jurisdiction)

(Address of jurisdiction)

#### APPENDIX A TO PART 630—REFERENCES

Publications and forms referenced in this part may be viewed at the Office of Provost Marshal at any Army installation. Department of Defense publications are also avail-

able from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 21161; telephone (703) 487-4684.

#### Required Publications

AR 5-9—Intraservice Support Installation Area Support Coordination (cited in § 630.4)

AR 27-50—Status of Forces Policies Procedures and Information (Cited in § 630.19 and § 630.30)

AR 190-45—Military Police Law Enforcement Reporting (Cited in § 630.7 and § 630.9)

AR 190-47—The United States Army Correctional System (Cited in § 630.22 and § 630.25)

AR 630-10—Absence Without Leave, Desertion, and Administration of Personnel involved in Civilian Court Proceedings (Cited in § 630.8 and § 630.30)

Manual for Court-martial, United States (Cited in § 630.8)

#### Related Publications

A related publication is merely a source of additional information. The user does not have to read it to understand this publication.

AR 37-104-3—Military Pay and Allowance Procedures: Joint Uniform Military Pay System Army (JUMPS-A1RR)

AR 55-355—Defense Traffic Management Regulation

#### Prescribed Forms

DD Form 616—Report of Return of Absentee (Prescribed in § 630.4, § 630.14, § 630.15, § 630.16, § 630.20, § 630.24 and § 630.29)

#### Referenced Forms

DA Form 2804—Crime Records Data Reference

DA Form 3975—Military Police Report

DA Form 3997—Military Police Desk Reference

DA Form 4833—Commander's Report of Disciplinary or Administrative Action

DA Form 369—Police Record Check

DA Form 460—Provisional Pass

DD Form 553—Deserter/Absentee Wanted by the Armed Forces

SF 1034—Public Voucher for Purchases and Services Other than Personal

#### APPENDIX B TO PART 630—GLOSSARY

##### Abbreviations

AAPS—Army Procurement Procedure Supplement

ARNG—Army National Guard

AWOL—absent without leave

BAS—basic allowance for substance

CG—commanding general

CONUS—Continental United States

## Department of the Army, DoD

Pt. 630, App. B

DCSPER—Deputy Chief of Staff for Personnel  
DCSOPS—Deputy Chief of Staff for Operations and Plans  
DFR—dropped from the rolls  
DIS—Defense Investigative Service  
DSN—Defense Systems Network  
EMF—enlisted master file  
FAR—Federal Acquisition Regulation  
FAS—Federal Acquisition Supplement  
FBI—Federal Bureau of Investigation  
MAC—Military Airlift Command  
MACOM—major Army command  
NCIC—National Crime Information Center  
NLETS—National Law Enforcement Telecommunication System  
OCONUS—outside Continental United States  
PCF—Personnel Control Facility  
PERSCOM—U.S. Army Total Personnel Command  
PERSINSCOM—U.S. Army Personnel Information Systems Command  
RMC—return to military control  
ROTC—Reserve Officer Training Course  
TR—Transportation request  
UCMJ—Uniform Code of Military Justice  
USACIDC—U.S. Army Criminal Investigation Command  
USACRC—U.S. Army Crime Records Center  
USADIP—U.S. Army Deserter Information Point  
USAEREC—U.S. Army Enlisted Records and Evaluation Center  
USAR—U.S. Army Reserve

### Terms

*Coordinating agent*—A person within a staff agency of CONUS command or CONUS installation who is responsible for coordinating and monitoring the absentee and deserter program.

*Desertion*—A violation of Article 85, UCMJ. It applies to any member of the Armed Forces who commits any of the following:

- (a) Not used.
- (1) Without authority goes or remains absent from his or her unit, organization, or place of duty with intent to remain away therefrom permanently.
- (2) Quits his or her unit, organization, or place of duty with intent to remain away therefrom permanently.
- (3) Without being regularly separated from one of the Armed Forces enlists or accepts an appointment in the same or another one of the Armed Forces without fully disclosing the fact that he or she has not been regularly separated, or enters any foreign Armed Service except when authorized by the United States. (This provision has been held not to state a separate offense by the United States Court of Military Appeals in *United States v. Huff*, 7 U.S.C.M.A. 247.22 C.M.R. 37 (1956).)
- (4) Any commissioned officer of the Armed Forces who, after tender of his or her resignation and before notice of its acceptance, quits his or her post or proper duties without

leave and with intent to remain away therefrom permanently is guilty of desertion.

(b) Deserters are classified as defectors when they commit any of the following:

- (1) Have escaped to another country and are outside the jurisdiction and control of the United States.
- (2) Are unwilling to return to the United States.
- (3) Are of special value to another country.
- (4) Have repudiated the United States when beyond its jurisdiction or control.

*Deserter control officer*—A commissioned officer (normally a battalion or unit adjutant) appointed in desertion cases to ensure that documentation on deserters dropped from the rolls is provided in a timely manner.

*Detainer*—A written notice to civil authorities that a person in their custody is an absentee of the Army or serving on active duty with the Army and that military authorities desire to take custody on release.

*Dropped from the rolls of a unit*—An administrative action that drops an absentee from the strength accountability of a unit.

*Dropped from strength*—A strength accounting procedure used to exclude personnel from the operating strength of the Army.

*National Crime Information Center*—A computerized police information system established by the Federal Bureau of Investigation to serve participating law enforcement agencies.

*Personal Assistance Point*—Agencies of the U.S. Army Total Personnel Command located at aerial ports of embarkation or debarkation to assist Army transient personnel enroute to or returning from overseas.

*Personnel Control Facility*—An organization that processes absentees returned to military control from an unauthorized absence. These facilities ensure proper disposition of returnees.

*Special category absentee*—A soldier reported AWOL who had access to top secret information during the last 12 months or is currently assigned to a special mission unit.

*Special mission unit*—A unit assigned a mission of such extraordinary sensitivity as to require specific management, oversight, and employment consideration.

*Unavoidable absence*—An unauthorized absence that happened through no fault of the absentee and no fault of the Government.

*Unit*—An organization, agency, or activity.

*Unit commander*—The commander of an absentee's or deserter's unit of assignment or attachment.

*U.S. Army Deserter Information Point*—The focal point with the Army for controlling, verifying, accounting, and disseminating data on individuals administratively classified as deserters.

**PART 631—ARMED FORCES DISCIPLINARY CONTROL BOARDS AND OFF-INSTALLATION MILITARY ENFORCEMENT SERVICES**

**Subpart A—General**

Sec.

- 631.1 Purpose.
- 631.2 Applicability.
- 631.3 Supervision.
- 631.4 Exceptions.

**Subpart B—Armed Forces Disciplinary Control Boards**

- 631.5 General.
- 631.6 Responsibilities.
- 631.7 Composition of boards.
- 631.8 Civil agencies.
- 631.9 Duties and functions of boards.
- 631.10 Administration.
- 631.11 Off-limits establishments and areas.

**Subpart C—Off-Installation Military Enforcement Services**

- 631.12 Objectives.
- 631.13 Applicability.
- 631.14 Responsibilities.
- 631.15 Policy (for Army only).
- 631.16 Policy (for Navy only).
- 631.17 Policy (for Marine Corps only).
- 631.18 Policy (for Air Force only).
- 631.19 Operations.

**Subpart D—Joint Service Law Enforcement Operations (Not Applicable to U.S. Navy)**

- 631.20 Organization.
- 631.21 Joint law enforcement operations.

APPENDIX A TO PART 631—CIVIL AGENCIES  
APPENDIX B TO PART 631—ARMED FORCES DISCIPLINARY CONTROL BOARD PROCEDURES GUIDE

AUTHORITY: 10 U.S.C. 3012(b)(1)(g).

SOURCE: 47 FR 8350, Feb. 26, 1982, unless otherwise noted.

**Subpart A—General**

**§ 631.1 Purpose.**

This regulation prescribes uniform policies and procedures for the establishment, operation, and coordination of the following:

- (a) Armed Forces Disciplinary Control Boards (AFDCB).
- (b) Off-installation military enforcement activities.
- (c) Joint law enforcement operations.

**§ 631.2 Applicability.**

This regulation applies to the following:

(a) Active US Armed Forces personnel wherever they are stationed. Commanders in oversea areas are authorized to deviate from the policy in this regulation if required by local conditions, treaties, agreements, and other arrangements with foreign governments and allied forces. Subparts C and D are not applicable to the US Navy.

(b) Reserve personnel only when they are performing Federal duties or engaging in any activity directly related to the performance of a Federal duty or function.

(c) National Guard personnel only when called or ordered to active duty in Federal status.

**§ 631.3 Supervision.**

(a) The following will jointly develop and have staff supervision over AFDCB policies and the conduct of off-installation military enforcement activities:

(1) The Deputy Chief of Staff for Personnel, Headquarters, Department of the Army.

(2) Chief of Naval Personnel (PERS-84).

(3) Commandant of the Marine Corps.

(4) Chief of Security Police, Air Force Office of Security Police, Department of the Air Force.

(5) Commandant of the Coast Guard.

(b) The above will also be responsible to standardize AFDCB policies and procedures as well as to coordinate and maintain liaison with interested staff agencies and other military and civil agencies.

**§ 631.4 Exceptions.**

Requests for exceptions to policies contained in this regulation will be forwarded to HQDA(DAPE-HRE-PO), WASH, DC 20310.

**Subpart B—Armed Forces Disciplinary Control Boards**

**§ 631.5 General.**

(a) Armed Forces Disciplinary Control Boards (AFDCBs) may be established by installation, base, or station commanders. The mission of AFDCBs is as follows:

(1) Advise and make recommendations to commanders on matters concerning the elimination of crime or other conditions which may negatively affect the health, safety, morals, welfare, morale, or discipline of Armed Forces personnel.

(2) Insure the establishment and maintenance of the highest degree of liaison and coordination between military commands and appropriate civil authorities.

(b) Where installations of two or more military Services are located or which are frequented by personnel of two or more Services, there will be joint Service participation in any AFDCB. In such cases, the commander of the Service with the greatest number of troops will serve as the "sponsoring commander" of the board. When there is joint participation in AFDCBs, written agreements will be executed by the respective Service installation commanders. These agreements will designate the sponsoring commander and delineate the joint Service participation.

#### § 631.6 Responsibilities.

(a) Major Army commanders, Navy commanders, Marine Corps commanders, Air Force commanders, and Coast Guard commanders will—

(1) Monitor the establishment of and participation in AFDCBs by subordinate commands.

(2) Encourage subordinate commanders to participate in joint Service boards where appropriate.

(3) Resolve differences among subordinate commanders in regard to board areas of responsibility and the designation of sponsoring commanders.

(4) Evaluate board recommendations and actions from subordinate sponsoring commanders.

(5) Forward to HQDA (DAPE-HRE), WASH, DC 20310, reports that require Service headquarters action to accomplish the following:

(i) Correct situations which would adversely affect the health, safety, morals, welfare, morale, or discipline of Armed Forces personnel.

(ii) Surface positive programs having widespread applicability.

(6) Insure procedures are established to notify the responsible individuals to

insure that off-limits restrictions are made known and applicable to all Armed Forces personnel who may frequent the area in question. These would be off-limits restrictions approved and so declared by subordinate sponsoring commanders.

(7) Insure that subordinate commanders assess the availability of drug abuse paraphernalia in the vicinity of DOD installations through their AFDCBs in accordance with DOD Directive 1010.4, Alcohol and Drug Abuse by DOD Personnel. Drug abuse paraphernalia is defined as all equipment, products, and materials of any kind that are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act.

(b) In each AFDCB area, the commander of the installation with the largest base population will be designated the AFDCB sponsoring commanders. Sponsoring commanders will provide administrative support, as shown below, for the AFDCB programs.

(1) Promulgate implementing directives and call meetings of the board.

(2) Provide a recorder for the board.

(3) Provide copies of the minutes of the meetings of the board to—

(i) Other Service commanders who provide board representatives.

(ii) BUPERS (for Navy only).

(iii) Other AFDCBs as appropriate.

(4) Approve or disapprove the minutes and recommendations of the board and make appropriate distribution, as required.

(5) Publish lists of "off-limits" establishments and areas.

(6) Insure notification to the responsible individuals of any unfavorable actions being contemplated or taken regarding their establishments in accordance with appendix B.

(7) Distribute all pertinent information to the following:

(i) All units within their jurisdictional area.

(ii) Units stationed in other areas whose personnel frequently visit their jurisdictional area.

(c) (For Army only). Commanders of Army installations depicted in Map 18, AR 5-9, are responsible for coordinating activities of AFDCB in their areas. They may serve as sponsoring commanders or participate as members of Joint Service Boards. They may approve the establishment of separate AFDCB for Army installations within their area when it is in the best interest of the Army to do so. Changes in AFDCB areas of responsibility may be approved by MACOMs of installations concerned.

(d) (For Army only). The Commander, US Army Health Services Command will—

(1) Assure that subordinate commanders provide *one* of the following to sit as a member of each established board—

(i) A Medical Corps officer.

(ii) A health and environment oriented Medical Service Corps (MSC) officer of the Army Medical Department (AMEDD).

(2) Encourage subordinate commanders to—

(i) Maintain liaison with other governmental and civilian health agencies to detect unsafe or unhealthy conditions within the geographic area of each supported board.

(ii) Advise the board of conditions which adversely affect Armed Forces personnel.

#### § 631.7 Composition of boards.

(a) Each board shall, as a minimum, consist of representatives from the following functional areas:

- (1) Law enforcement.
- (2) Legal.
- (3) Health and environment.
- (4) Public affairs.
- (5) Equal opportunity.
- (6) Safety.
- (7) Chaplains.
- (8) Alcohol and drug abuse.
- (9) Personnel and community activities.

(b) Sponsoring commanders will determine, by position, which board members will be designated as voting members. Such designations will be in-

cluded in the written agreements establishing the boards.

(c) Normally the sponsoring commander will designate a member of his staff as the board President.

#### § 631.8 Civil agencies.

(a) Civil agencies or individuals may be invited to board meetings as observers or witnesses in jurisdictions where they have knowledge of problems in the board's area of interest. These would be civil agencies or individuals concerned with law enforcement, public health, welfare, consumer affairs, and the safeguarding of morals.

(b) Boards should be used to establish and maintain liaison between installations and civil agencies. A recommended method is to mail announcements and summaries of the results of board meetings to appropriate civil agencies. These agencies include, but are not limited to, those found in appendix A.

#### § 631.9 Duties and functions of boards.

The AFDCBs will—

(a) Meet in session as prescribed by the AFDCB Procedures Guide in appendix B.

(b) Receive and take appropriate action on reports of conditions in their jurisdictional areas relating to any of the following:

- (1) Lack of discipline.
- (2) Prostitution.
- (3) Venereal disease.
- (4) Liquor violations.
- (5) Racial and other discriminatory practices.
- (6) Alcohol and drug abuse.
- (7) Drug abuse paraphernalia.
- (8) Disorder.
- (9) Illicit gambling.
- (10) Unfair commercial or consumer practices.

(11) Other undesirable conditions that may adversely affect members of the military or their families.

(c) Report the following to all major commanders in the board's area of jurisdiction:

(1) Any conditions cited in paragraph (b) of this section.

(2) The board's recommended action as approved by the board's sponsoring commander.

## Department of the Army, DoD

## § 631.11

(d) Conduct active liaison with appropriate civil authorities on problems or adverse conditions existing in the board's area of interest.

(e) Make recommendations to commanders in the board's area of jurisdiction concerning off-installation procedures to prevent or control undesirable conditions.

### § 631.10 Administration.

(a) Commanders are authorized to acquire, report, process, and store information concerning persons and organizations, whether or not affiliated with the Department of Defense (DOD) (AR 380-13), which:

(1) Adversely affects the health, morals, welfare, morale, or discipline of Armed Forces personnel regardless of status.

(2) Describes crime conducive conditions of which Armed Forces personnel may become victims.

(b) Information described in paragraph (a) of this section may be filed by organization; however, it will not be retrievable on the basis of individual personal identification data, e.g., SSN, name, or address. The information should be retained only as long as the described conditions or threat to the welfare of Armed Forces personnel continues to exist.

(c) Boards will function under the supervision of a president.

(d) Certain expenses incurred by Service members in the course of an official board investigation or inspection may be reimbursable. This would be done in accordance with appropriate Service finance regulations or instructions. These requests should be submitted to the sponsoring Service finance office and charged to the appropriate law enforcement account. (For the Army, this account is the T6 account.)

(e) Records of board proceedings will be maintained as prescribed by records management policies and procedures for the Service of the sponsoring commander.

### § 631.11 Off-limits establishments and areas.

(a) An *off-limits* area is defined as any vehicle, conveyance, place, structure, building, or area prohibited to military personnel to use, ride, visit, or enter

during the period in which it may be declared off-limits. As a matter of policy, the change in ownership, management, or name of any off-limits establishment does not, in and of itself, revoke the off-limits restriction.

(b) The establishment of off-limits areas is a function of command. It may be used by commanders to help maintain good discipline and an appropriate level of good health, morale, safety, morals, and welfare of Armed Forces personnel. Off-limits action is also used to preclude Armed Forces personnel from being exposed to crime conducive conditions or from becoming the victims of crimes. Where sufficient cause exists, commanders retain substantial discretion to declare establishments or areas temporarily off-limits to personnel or their respective command in emergency situations. Temporary off-limits restrictions issued by commanders in an emergency situation will be acted upon by the AFDCB on a priority basis.

(c) Armed Forces personnel are prohibited from entering establishments or areas declared off-limits in accordance with this regulation. Violations may subject the individual to disciplinary action under the Uniform Code of Military Justice (UCMJ). As general policy, these establishments will not be visited by military law enforcement personnel unless circumstances warrant.

(d) Prior to initiating routine off-limits action, installation commanders will attempt to correct, through contact with local civilian leaders, any adverse condition or situation. If these actions are unsuccessful, commanders will submit reports, requesting off-limits action, to the AFDCB serving their area.

(e) The AFDCB, prior to recommending off-limits restriction, will send written notice of the alleged adverse condition or situation, by certified mail with return receipt requested, to the individual or firm responsible for the alleged condition or situation. In this notice, the AFDCB will offer a reasonable time to correct the condition or situation and provide the individual or a designated representative with the opportunity to present any relevant information to the board. (See sample

letter at annex A to App B.) If subsequent investigation reveals a failure by the responsible person to take corrective action, the board should recommend the imposition of the off-limits restriction.

(f) A specified time limit will not be established when an off-limits restriction is invoked. The adequacy of the corrective action taken by the proprietor of the establishment will be the determining factor in removing an off-limits restriction.

(g) A person whose establishment or area has been declared off-limits may, at any time, petition the president of the board for removal of the off-limits restriction. The petition will be in writing. It should state, in detail, the action taken to eliminate the adverse conditions or situations that caused the imposition of the restriction. In response to the petition, the President of the AFDCB may cause a thorough investigation to be made of the status of these adverse conditions or situations. A report of the results of the investigation would be presented to the board. The board then will either recommend removal or continuation of the off-limits restriction to the local sponsoring commander.

(h) Off-limits procedures to be followed by the boards are in appendix B. In the United States, off-limits signs will not be posted on civilian establishments by US military authorities.

### Subpart C—Off-Installation Military Enforcement Services

#### § 631.12 Objectives.

The primary objectives of off-installation enforcement are to—

(a) Render assistance and information to Armed Forces personnel.

(b) Reduce the incidence of off-installation military offenses committed by Armed Forces personnel.

(c) Enforce the UCMJ and other pertinent regulations, directives, and orders among persons subject to the UCMJ.

(d) Maintain effective liaison and cooperation with civil law enforcement and judicial agencies.

(e) Enhance apprehension efforts and return to military control absentees

and deserters wanted by the Armed Forces.

(f) Maintain good community relations.

(g) Assist in the return of military members detained by civil authorities to military control.

#### § 631.13 Applicability.

This chapter applies to off-installation enforcement activities. It does not apply to the activities of AFDCBs which were discussed in subpart B. It is not applicable to the U.S. Navy.

#### § 631.14 Responsibilities.

(a) Commanders of military installations will recognize the responsibility of civil authorities for the maintenance of peace and order in those areas not under military jurisdiction or control. They should—

(1) Conduct off-installation law enforcement in accordance with applicable Service policies and procedures.

(2) Coordinate the liaison functions to accomplish the objectives outlined in paragraph 3-1.

#### § 631.15 Policy (for Army only).

(a) *Within CONUS.* (1) Normally, off-post patrols will not be established in CONUS. However, MACOM commanders may authorize military police to establish off-installation patrols if needed—

(i) In conjunction with military operations.

(ii) To safeguard the health and welfare of Army personnel.

(iii) When the type of offenses or the number of military personnel frequenting an area is large enough to warrant such patrols.

(2) In view of the important legal implications involved (see 18 U.S.C. 1385, the Posse Comitatus Act), the advice of the local Staff Judge Advocate should be sought prior to the implementation of such an authorization. When possible, MACOM commanders will execute a mutually acceptable written agreement with the civil police authorities.

(b) *OCONUS.* Off-post patrols will be kept at a minimum for mission accomplishment. Commanders of MACOMs may authorize off-post patrols as required by local conditions and customs



## Department of the Army, DoD

## § 631.17

as long as these patrols are in accordance with applicable treaties and Status of Forces Agreements.

(c) Military police personnel selected for off-post patrols must be experienced in law enforcement and have mature judgment. They must be thoroughly familiar with all applicable agreements and implementing standard operating procedures. They must understand the implications of the Posse Comitatus Act as it pertains to military law enforcement personnel assisting local law enforcement agencies.

(d) At a minimum, instructions to military police assigned to off-post patrols will specifically state that if they accompany civil police, they will do so for the sole purpose of enforcing the UCMJ among persons subject to the code. Their instructions will also specifically state that they are under the command and directly responsible to their military superiors and that they exercise no authority over the civil police or the civil populace. Accordingly, military police should be instructed that they are not to exercise any authority in a case of misconduct or apparent law violation unless the person concerned has been identified as a member of the military service. However, military law enforcement personnel may come to the aid of civil police in order to prevent the commission of a felony or injury to a civilian police officer.

### § 631.16 Policy (for Navy only).

(a) Off-base law enforcement activities by naval personnel (CONUS and Hawaii) shall be limited to liaison functions with civilian law enforcement agencies and courts and to the acceptance of "courtesy turnovers."

(b) The court liaison function is limited to the provision of an official Navy point of contact for the courts, to the provision of advice for individuals and local commands, and to court appearance with individuals from deployed commands.

(c) Courtesy turnovers will be limited to those persons whose behavior and attitude are acceptable and who desire to be returned to the custody of their parent command.

(d) Courtesy turnovers will be accepted from jails, police stations, etc., but

not directly from police officers on the scene of an incident.

### § 631.17 Policy (for Marine Corps only).

(a) *Within CONUS.* (1) Normally, off-installation patrols will not be established in CONUS. However, installation commanders may request authority from HQMC (Code MPH) to establish off-installation patrols if needed.

(i) In conjunction with military operations.

(ii) To safeguard the health and welfare of Marine personnel.

(iii) When the type of offenses or the number of military personnel frequenting an area is large enough to warrant such patrols.

(2) In view of the important legal implications involved (see 18 U.S.C. 1382, the Posse Comitatus Act as made applicable to DoN) the advice of the local staff judge advocate/legal officer should be sought prior to the implementation of such an authorization. When possible, installation commanders will execute a mutually acceptable written agreement with the civil police authorities.

(b) *Overseas Areas.* Off-installation patrols will be kept at minimum for mission accomplishment. Commanders of installations may authorize off-installation patrols as required by local conditions and customs as long as these patrols are in accordance with applicable treaties and Status of Forces Agreements.

(c) Personnel selected for off-installation patrols must be experienced in law enforcement and have mature judgment. They must be thoroughly familiar with all applicable agreements and implementing standard operating procedures. They must understand the implications of the Posse Comitatus Act as it pertains to military law enforcement personnel assisting local law enforcement agencies.

(d) At a minimum, instructions to military police assigned to off-installation patrols will specifically state that if they accompany civil police, they will do so for the sole purpose of enforcing the UCMJ among persons subject to the code. Their instructions will also specifically state that they are

under the command and directly responsible to their military superiors and that they exercise no authority over the civil police or the civil populace.

Accordingly, military police should be instructed that they are not to exercise any authority in a case of misconduct or apparent law violation unless the person concerned has been identified as a member of the military service. However, military law enforcement personnel may come to the aid of civil police in order to prevent the commission of a felony or injury to a civilian police officer.

(e) Absentee and deserter collection units to accept active duty absentee or deserter military personnel from civilian authorities may be established.

(f) Civil police and civil court liaison may be established.

(g) Installation commanders are authorized to establish other activities deemed necessary, provided each activity is within the scope of military purpose and authority, i.e., apprehensions where authorized by UCMJ, courtesy patrols, etc.

#### **§ 631.18 Policy (for Air Force only).**

See section B, AFR 125-19, for Air Force policy on off-installation patrols.

#### **§ 631.19 Operations.**

(a) In CONUS, incidents occurring off-installation normally are investigated by civil law enforcement agencies. These include State, county, or municipal authorities or a Federal investigative agency. When an incident of substantial interest to the U.S. Army occurs off-installation, the Armed Forces law enforcement organization exercising area responsibility will obtain copies of the civil law enforcement report. These are incidents that involve Army property or personnel. The civil law enforcement report would be processed according to applicable Service regulations.

(b) In overseas areas, off-installation incidents will be investigated in accordance with Status of Forces agreements and other appropriate U.S.-host country agreements.

(c) Off-installation enforcement operations may include the following activities:

- (1) Town patrol.
- (2) Town military police.
- (3) Air Force Security Police patrols and stations.
- (4) Civil police and civil court liaison.
- (5) Public carrier and civilian transportation terminal patrols.
- (6) Acceptance of active duty absentee or deserter military personnel turned over to Service police by civilian authorities.
- (7) Other activities deemed necessary, provided each activity is within the scope of military purpose and authority.

(d) Activities in c above will be performed according to the Service policies in §§ 631.15 through 631.17. They will be based on the need and the fiscal and manpower restraints imposed by each Service. If practical, mutual agreements between two or more Services may be made to facilitate the conduct of joint Service off-installation enforcement services and absentee apprehension functions.

(e) Armed Forces law enforcement personnel will—

(1) Act under the command of, and be responsible to, military superiors and will not be placed under the control of civil authorities.

(2) Exercise authority over civil law enforcement agencies or persons not subject to the UCMJ only when they are on a military installation.

(3) Be authorized to apprehend persons subject to the UCMJ when there exists a reasonable belief that an offense under the code has been committed and that the person to be apprehended committed the offense. Civilians committing offenses on US military installations may be detained for the appropriate Federal, State, or local law enforcement agency.

(4) Return apprehended persons to representatives of their respective Services as soon as practicable.

(5) Process all reports received from other law enforcement agencies concerning crimes committed by military personnel, involving military property, or in which DOD has an interest.

## Subpart D—Joint Service Law Enforcement Operations (Not Applicable to U.S. Navy)

### § 631.20 Organization.

In localities frequented by personnel of more than one Service, installation commanders may consider the establishment of joint law enforcement operations. Such operations may provide a more effective and economical accomplishment of off-installation law enforcement. When such operations are established, participating installation commanders will—

- (a) Execute written agreements concerning the operations.
- (b) Insure that each participating organization contributes its proportionate share of personnel, equipment, and supporting facilities.

### § 631.21 Joint law enforcement operations.

The following procedures will apply when establishing joint law enforcement operations:

- (a) *Personnel.* Enlisted personnel selected for joint law enforcement duty should meet the following qualifications:
  - (1) Be temperamentally suited for police duty and received training or have experience in law enforcement.
  - (2) Be 19 years of age or older.
  - (3) Have no record of court-martial convictions or civilian offenses other than minor traffic violations.
  - (4) Be at least 5 feet 4 inches tall.
  - (5) Meet General Classification Test (GCT) (or equivalent test) score requirements of the parent Service for assignment to police duty.
  - (6) Possess a military motor vehicle operators license.
  - (7) Have at least 12 months remaining on current enlistment.
- (b) *Logistics.* Personnel assigned to joint patrols will be equipped as prescribed by their respective Service regulations or directives to include the symbol of their law enforcement authority (badge or brassard).
- (c) *Functions.* Joint law enforcement operations will perform, at a minimum, the following functions:
  - (1) Provide assistance to all Armed Forces personnel who are charged with civil violations.

- (2) Maintain liaison with civilian enforcement and judicial agencies.

- (3) Have the capability to receive military personnel apprehended by civilian authorities.

- (d) *Duty assignments.* Personnel assigned to perform joint operations may be further assigned to perform duties in any of the following functional areas:

- (1) Police station operation (desk sergeants, desk clerks, radio operators, etc.).
- (2) Motor patrols necessary to conduct police and court liaison and to transport military personnel from the local civilian police.
- (3) Operations.
- (4) Administration.

### APPENDIX A TO PART 631—CIVIL AGENCIES

#### A-1. *American Social Health Association.*

The American Social Health Association, upon request, provides information and consultation in the fields of venereal disease and drug abuse. Local AFDCBs desiring information should apply through one of the following regional offices of the association:

Eastern Regional Director, 86 Farmington Ave., Hartford, CT 06105  
 Middle America Regional Director, 110 North High Street, Gahanna, OH 43230  
 Southern Regional Director, 173 Walton Street, NW., Atlanta, GA 30303  
 Western Regional Director, 785 Market Street, Rm. 1010, San Francisco, CA 94103

#### A-2. *United States Brewers Association.*

a. The United States Brewers Association is the trade and public relations agency of the organized brewing industry in the United States. Upon request, it will assist military authorities within CONUS to eliminate conditions detrimental to the health, morals, and welfare of members of the Armed Forces in the cities and communities adjacent to military installations.

b. This association conducts an Armed Forces cooperation program to further "self-regulation" activities among beer dealers. It cooperates with State and local law enforcement officials in the promotion and maintenance of proper conditions in retail beer outlets throughout the country. Its services are available to AFDCBs for furthering joint action in the promotion of law observance and the maintenance of conditions of cleanliness and decency in retail beer outlets patronized by members of the Armed Forces.

c. Local sponsoring commanders requesting the assistance of the Brewers Association may apply to the Director of Field Services,

US Brewers Association, Inc., 1750 K Street NW., Washington DC 20006.

A-3. *The National Environmental Health Association.*

The National Environmental Health Association is a professional organization representing various sanitary and environmental control groups. It provides information and consultation on solid waste management, air and water pollution, and other environmental health matters. Military members of the association belong to the Uniform Services Association of Sanitarians. All requests for assistance should be directed to the military association at the national association headquarters, 1600 Pennsylvania Ave., Denver, Colorado 80293.

A-4. *The Federal Trade Commission.*

The Federal Trade Commission was established in 1914 and is the principal agency of the Government responsible for preventing deceptive acts and practices in commerce. The Commission strives to keep competition fair and free from deceptive advertisement of food, drugs, cosmetics, therapeutic devices, catalog sales, and credit card purchases. It strives to protect consumers against the circulation of inaccurate or obsolete credit reports. Consumer Protection Specialists are located at the national and regional offices to render assistance. Regional offices are located in major metropolitan areas and frequently conduct investigations of acts peculiar to local communities. Inquiries should be made to the regional offices.

APPENDIX B TO PART 631—ARMED FORCES DISCIPLINARY CONTROL BOARD PROCEDURES GUIDE

B-1. *General.* This guide prescribes procedures for the establishment, operation, and coordination of Armed Forces Disciplinary Control Boards (AFDCBs). It is intended to insure uniformity of operation. AFDCB proceedings are not considered to be adversary in nature.

B-2. *Meetings.*

a. Regular meetings will be held once each quarter or as designated by the president. The sponsoring commander may specify whether the meetings, as scheduled, will be open or closed. If not specified, the decision is within the discretion of the president of the board. Normally, proceedings are closed, but may be opened to the public when circumstances warrant.

b. Special meetings may be called by the president of the board. Except by unanimous consent of members present, final action will be taken only on the business for which the meeting was called.

B-3. *AFDCB composition.*

a. Voting members will be selected according to paragraph 2-3 of this regulation.

b. A majority of voting members constitutes a quorum for voting proceedings.

B-4. *Attendance of observers or witnesses.*

a. Representatives of the agencies listed below may be invited to attend as observers or witnesses.

- (1) American Social Health Association.
- (2) United States Brewers Association.
- (3) Federal Bureau of Investigation.
- (4) United States Attorneys.
- (5) State and local police.
- (6) State and local departments of health.
- (7) State and local VD control officers.
- (8) State alcoholic beverage control authorities.
- (9) State and local prosecutors.
- (10) Consumer affairs personnel.
- (11) State and local narcotics investigative agencies.
- (12) Immigration and Naturalization Service.
- (13) Members of Judiciary directly concerned with law enforcement.
- (14) Drug Enforcement Administration.
- (15) Bureau of Alcohol, Tobacco, and Firearms.
- (16) US Customs Service.
- (17) Chamber of Commerce.
- (18) Better Business Bureau.
- (19) State license beverage association.
- (20) National Institute of Drug Abuse and National Institute on Alcohol Abuse and Alcoholism.
- (21) Adult probation department/social services.
- (22) Any other representation deemed appropriate by the sponsoring command, i.e., news media, union representatives, and so forth.

b. Witnesses and observers will be listed in the minutes of the meeting if invited by the board to participate in that capacity.

c. Board action may be recommended by a majority vote of the voting members present at a regular or special board meeting.

B-5. *Appropriate areas for board consideration.*

a. Boards will study and take appropriate action in connection with all conditions detrimental to the good discipline, health, morals, welfare, safety, and morale of Armed Forces personnel. This will include, but not be limited to, the following:

- (1) Crime and misconduct.
- (2) Narcotics, marihuana, dangerous drugs, and drug abuse paraphernalia.
- (3) Liquor violations.
- (4) Excessive number of unauthorized absences.
- (5) Gambling (when in violation of State or local law).
- (6) Military and civilian relationships that may be detrimental to service personnel.
- (7) Unsanitary and other adverse conditions in establishments frequented by Armed Forces personnel.
- (8) Off-installation/base safety problems.
- (9) Unethical or illegal business practices.
- (10) Prostitution and venereal disease.

(11) Discriminatory practices.

(12) Other health hazards.

b. The board will immediately forward to the local commander concerned the circumstances reported to the board involving discrimination based on race, color, sex, religion, age, or national origin.

B-6. *Off-limits procedures.*

a. Off-limits restrictions should be invoked only when there is substantive information indicating that an establishment or area frequented by Armed Forces personnel presents conditions which adversely affect the health, safety, welfare, morale, or morals of such personnel. It is essential that boards do not act arbitrarily; actions must not be of a punitive nature. Boards should work in close cooperation with local officials and proprietors of business establishments and seek to accomplish their mission through mutually cooperative efforts. Boards should encourage personal visits by local military and civilian enforcement or health officials to establishments considered below standard. AFDCBs should point out unhealthy conditions or undesirable practices to establishment owners or operators in order to produce the desired corrective action.

b. Prior to initiating routine off-limits action, the local commander will attempt to correct any situation which adversely affects the welfare of Armed Forces personnel. This will be done through contact with community leaders.

c. Unless emergency conditions exist which are extremely harmful to Armed Forces personnel, an establishment will not be recommended for off-limits action until the proprietor has been—

(1) Notified in writing of the adverse condition/circumstances.

(2) Given an opportunity to be heard and a reasonable time in which to correct deficiencies.

d. If the board decides to attempt to investigate or inspect an establishment, the president or a designee will prepare and submit a report of findings and recommendations at the next meeting. This will insure complete and documented information concerning doubtful adverse conditions.

e. When the board concludes that conditions adverse to Armed Forces personnel do exist, the owner or manager will be sent a letter of notification (annex A). This letter will advise him or her to raise standards and that, if such conditions or practices continue, off-limits proceedings will be initiated. In cases involving discrimination, the board should not rely solely on letters written by the Equal Opportunity Office and Military Affairs Committee or investigations of alleged racial discrimination. The AFDCB should send letters to the proprietor, informing him or her that off-limits action is being considered and inviting him or her to the next board meeting. Boards should send let-

ters directly to the proprietors when any off-limits action is being considered. If a proprietor takes remedial action to correct undesirable conditions previously noted, the board should send a letter of appreciation (annex B). Any correspondence with the individuals responsible for adverse conditions leading to off-limits action will be by certified mail.

f. If the undesirable conditions are not corrected, an invitation (annex C) will be written to the proprietor. This letter will invite the proprietor to appear before the board to explain why the establishment should not be placed off-limits. The proprietor may designate, in writing, individual(s) to represent him or her at the board.

g. In cases where proprietors have been invited to appear before the board, the president of the board will perform the following actions:

(1) Prior to calling the proprietor—

(a) Review the findings and decision of the previous meeting.

(b) Call for inspection reports.

(c) Afford an opportunity to those present to ask questions and discuss the case.

(2) When the proprietor and/or his or her counsel is called before the board—

(a) Present the proprietor with a brief summary of the complaint concerning his or her establishment.

(b) Afford the proprietor an opportunity to present matters in defense of the allegation.

(c) Offer those present an opportunity to question the proprietor. After the questioning period, provide the proprietor a final opportunity to make an additional statement or to make commitments concerning his or her willingness to cooperate.

(3) After excusing the proprietor from the meeting, the president and board will discuss suggestions and recommendations for disposition of the case in closed session.

h. No member of a board shall reprimand or admonish in any degree a person appearing before a board. Board members do not have jurisdiction over such individuals. Off-limits actions are designed solely for the protection of Armed Forces personnel and are used as a last resort when all other means have failed.

i. The board should recommend that the offending establishment be placed off-limits only after the following:

(1) The letter of notification (annex A) has been sent.

(2) An opportunity to appear before the board has been extended.

(3) Further investigation indicates that improvements have not been made.

j. The minutes will indicate a board's action in disposing of each case. When a recommendation is made that an establishment be placed off-limits, the minutes will show the procedural steps followed in reaching the decision.

k. Recommendations of the board will be submitted to the sponsoring commander for consideration. The recommendations will then be forwarded to the other installation commanders who furnish board representation (annex D). If no objection to the recommendations is received within 10 days, the sponsoring commander will either approve or disapprove the recommendations. He will then forward this decision to the board president.

l. Upon approval of the board's recommendations, the president will dispatch a declaration that the off-limits restriction has been imposed (annex E).

m. No definite time limit should be specified when an off-limits restriction is invoked. The adequacy of the corrective action taken by the proprietor of the establishment must be the determining factor in removing an off-limits restriction.

n. Military commanders have no authority to post off-limits signs on private property. Appropriate civil officials may post private property when informed by military authorities that an establishment or area has been declared off-limits to Armed Forces personnel.

o. Emergency off-limits action: In emergencies, commanders may temporarily declare establishments or areas off-limits to Armed Forces personnel subject to their jurisdiction. They must then report the circumstances immediately to the commander sponsoring the board. Detailed justification for this emergency action will be provided to the board for its use.

#### B-7. *Removal of off-limits restrictions.*

a. Removal of an off-limits restriction requires board action. Proprietors of establishments declared off-limits should be advised that they may appeal to the appropriate board at any time. In their appeal, they should submit the reason why, in their opinion, the restriction should be removed. A letter of notification of continuance of off-limits restriction should be sent to the proprietor if the board does not favorably consider removal of an off-limits restriction (annex F). If, after exhausting all appeals at the board/local sponsoring commander level, the proprietor is not satisfied with those decisions, his or her case will be forwarded to the next higher commander of the sponsoring commander for review and resolution. Boards should make at least quarterly inspections of off-limits establishments. A statement that an inspection has been made should be reflected in their minutes.

b. When it has been determined that adequate corrective measures have been taken by the owner or manager of an establishment or area to meet the requirements for good discipline, health and welfare of Armed Forces personnel, the appropriate board will take the following actions:

(1) Discuss the matter at the next meeting and make an appropriate recommendation.

(2) Forward recommendation for removal of off-limits restriction to the sponsoring commander. If the recommendation is approved, dispatch a letter of removal of off-limits (annex G or H).

(3) Record what action was taken in the minutes of the board meeting.

#### B-8. *Duties of the president of the board.*

The president of the board will—

a. Schedule and preside at all meetings of the board and sign appropriate correspondence.

b. Prepare an agenda prior to each regular meeting and insure its distribution to each voting member at least 7 days prior to the meeting.

c. Be responsible for the preparation and distribution of the minutes of all meetings and for maintenance of appropriate records and files pertaining to AFDCB activities. (See para. 2-6e.)

d. Inform members of any special meeting and its purpose as far in advance as possible.

e. Prepare and distribute to major commands a copy of the minutes of each meeting.

f. Supervise the recorder in performance of all administrative duties as required.

#### B-9. *Minutes.*

a. Annex I is a guide for the preparation of the minutes of board meetings. Minutes will be prepared in accordance with administrative formats for minutes of meetings prescribed by the Service of the sponsoring commander. The written minutes of board meetings will be deemed the official record of board meetings. Verbatim transcripts of board meetings are not required. The reasons for approving or removing an off-limits restriction, to include a complete address of the establishment or area involved, should be indicated in the order of business. In addition, the board's action will be shown in order of sequence, such as dispatch of letter of notification, appearance before board, recommendation to local sponsoring commander, or action taken by local sponsoring commander. Change in the name of an establishment or areas in an off-limits status will also be included.

b. Distribution of the minutes of board meetings will be limited to the following:

(1) Each voting member, sponsoring command and other commands, and installations represented on or serviced by the board.

(2) Each civilian and military advisory member, if deemed appropriate.

(3) Civilian and Government agencies, within the State in which member installations are located, having an interest in the functions of the board, if appropriate.

c. The minutes of the board meeting, containing the board's recommendations, will be forwarded in writing to the sponsoring commander. The minutes will be accompanied by

## Department of the Army, DoD

## § 632.1

a request that the recommendations be approved for implementation. The sponsoring commander will, by written indorsement to the president of the board, approve or disapprove the minutes and recommendations.

d. Board minutes are subject to the release and disclosure provisions of DOD Directive 5400.7 and implementing Service regulations.

B-10. *Installation commander and board relationship.*

Military installation commanders within a board's areas of responsibility must be thoroughly acquainted with the mission and services provided by AFDCBs. Board members should keep their respective commanders informed of command responsibility pertaining to board functions and actions.

B-11. *Public affairs.*

a. Because of the sensitive nature of subject matter discussed, no public announcement will be initiated in connection with board meetings. However, any board proceeding which is open to the public will also be open to representatives of the news media. Representatives of the news media will be considered as observers and will not participate in the discussion of matter considered by the board. Members of the news media may be invited to participate in an advisory status in coordination with the Public Affairs Officer.

b. News media interviews and releases will be handled through the Public Affairs Offices in accordance with this regulation and AR 360-5.

### ANNEX A—LETTER OF NOTIFICATION

(Letterhead)

(Appropriate AFDCB)

Proprietor

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Sir: As President of the Armed Forces Disciplinary Control Board, it is my duty to inform you of certain undesirable conditions reported at your establishment which adversely affect the health and welfare of personnel in the Armed Forces. It has come to the attention of the board that (*cite pertinent information*). You are advised that it will be necessary for this board to initiate action to determine whether your establishment should be placed off-limits to personnel of the Armed Forces if the above cited undesirable condition(s) is (are) not eliminated. (*Include if applicable*). Within (*cite period*), a representative of this board will visit your establishment in order to determine if steps have been taken to correct the conditions outlined above.

Sincerely,

\_\_\_\_\_  
President, AFDCB.

(NOTE: When sent by mail, send letter by *CERTIFIED MAIL, RETURN RECEIPT REQUESTED*.)

### ANNEX B—LETTER OF APPRECIATION

(Letterhead)

(Appropriate AFDCB)

Proprietor

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Sir:

Reference is made to my letter dated \_\_\_\_\_ concerning certain undesirable conditions reported at your establishment which adversely affect the health and welfare of personnel in the Armed Forces.

The board appreciates your action in correcting the deficiencies previously noted. In view of this fact, the board contemplates no further action with respect to this matter at the present time.

The board hopes that you will continue to operate your establishment in the manner which will benefit the health and welfare of Service personnel. Your continued cooperation is solicited.

Sincerely,

\_\_\_\_\_  
President, AFDCB.

### ANNEX C—LETTER OF INVITATION

(Letterhead)

(Appropriate AFDCB)

Proprietor

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## PART 632—USE OF FORCE BY PERSONNEL ENGAGED IN LAW ENFORCEMENT AND SECURITY DUTIES

Sec.

632.1 Purpose.

632.2 Applicability.

632.3 Policy.

632.4 Deadly force.

632.5 Use of firearms.

632.6 Administrative instructions.

AUTHORITY: 10 U.S.C. 3012.

SOURCE: 48 FR 17074, Apr. 21, 1983, unless otherwise noted.

### § 632.1 Purpose.

This regulation implements DOD Directive 5210.65. It sets uniform policy for use of force by DA law enforcement and security personnel.

**§ 632.2 Applicability.**

(a) This regulation applies to all DA including Army National Guard and Army Reserve and civilian personnel engaged in law enforcement or security duties, and those civilian contract guard personnel performing security duties. These duties include guarding U.S. Military prisoners and interior guard duties.

(b) Except for personnel guarding U.S. military prisoners, this regulation does not apply to persons assigned to—

- (1) A wartime combat zone.
- (2) A non-wartime hostile fire area.
- (3) Duties with the U.S. Secret Service.
- (4) Civil disturbance control. (See para 4-12, FM 19-15.)

**§ 632.3 Policy.**

(a) Law enforcement and security personnel will use force only when they cannot fulfill their duties without it. They will use the minimum force needed; only as a last resort will they use deadly force. (See §§ 632.3(c), 632.4, and 632.5.)

(b) Commanders are encouraged to substitute nonlethal devices (such as night sticks) for firearms when adequate for law enforcement and security personnel to safely fulfill their duties.

(c) In evaluating the degree of force needed for specific law enforcement or security situations, consider these options:

- (1) Verbal persuasion.
- (2) Unarmed defense techniques.
- (3) Chemical aerosol irritant projectors (M36). (May be subject to host nation or local restrictions.)
- (4) MP club.
- (5) MP working dogs.
- (6) Deadly force. (§ 632.4)
- (d) Entrapment, i.e., inducing someone to commit an offense in order to prosecute that person, is not permitted in law enforcement or security duties.
- (e) Use MP working dogs in accordance with the provisions of AR 190-12. Release dogs only if a lesser measure of force would not be effective.
  - (1) Releasing a sentry dog to apprehend a suspect is a greater measure of force than releasing a patrol dog.
  - (2) Before releasing a military dog for attack, give a challenge or order to halt.

**§ 632.4 Deadly force.**

(a) Deadly force is destructive physical force directed against a person or persons (e.g., firing a lethal weapon). Use it only in extreme need, when all lesser means have failed or cannot reasonably be used. Use deadly force for one or more of the following reasons only:

(1) In self-defense, when in imminent danger of death or serious injury.

(2) To protect property related to national security, when reasonably necessary to prevent—

(i) Threatened theft, damage, or espionage aimed at property or information specified by a commander or other competent authority as vital to national security. (See paragraph (b) of this section.)

(ii) Actual theft, damage, or espionage aimed at property or information which, though not vital, is substantially important to national security. (See paragraph (b) of this section.)

(iii) Escape of an individual whose unauthorized presence near property or information vital to national security is a reasonable threat of theft, sabotage, or espionage.

(3) To prevent actual theft or sabotage of property (such as operable weapons or ammunition) which could cause deadly harm to others in the hands of an unauthorized person.

(4) To prevent serious offenses against a person or persons (e.g., armed robbery, rape, or violent destruction of property by arson, bombing).

(5) To apprehend a suspect believed to have committed any of the types of offenses named in paragraphs (a) (2), (3), and (4) of this section.

(6) To prevent the escape of a prisoner (when authorized by a commander or other competent authority and reasonably necessary).

(7) To obey lawful orders from higher authority governed by this regulation.

(b) A commander or other competent authority will specify that property or information is—

(1) Vital to national security only when its loss, damage, or compromise would seriously harm national security or an essential national defense mission.

(2) Substantially important to national security based on the mission



## Department of the Army, DoD

## § 633.12

and the material or information required to perform it.

(c) To comply with local law or international agreement or arrangements, a commander may impose further restrictions on using deadly force. (Restrictions should not unduly compromise U.S. security interests).

(d) Security criteria and standards for protection of nuclear weapons (paragraph (c) of this section AR 50-5-1) and for chemical agents (paragraph (c) of this section AR 50-6-1) also apply.

### § 632.5 Use of firearms.

(a) If it becomes necessary to use a firearm in any of the circumstances described in § 632.4 of this part, observe the following precautions when possible:

(1) Give an order to halt before firing.

(2) Do not fire if shots are likely to harm innocent bystanders.

(3) Since warning shots could harm innocent bystanders, avoid firing them. However, when lesser degrees of force have failed, the law enforcement or security person may judge that warning shots would help to control the situation without using deadly force. If able to avoid hazards to innocent persons in these cases, fire warning shots.

(4) Aim to disable. At times it may be difficult to fire with enough precision to ensure disabling rather than killing. If the use of firearms are otherwise authorized by this regulation, such circumstances will not rule out their use.

### § 632.6 Administrative instructions.

(a) Commanders will ensure that all persons assigned to law enforcement, security, or US military prisoners' guard duties will, before performing these duties—

(1) Receive instructions on regulations regarding use of force.

(2) Show knowledge and skill in the use of—

(i) Unarmed defense techniques.

(ii) MP club.

(iii) Individual chemical aerosol irritant projectors.

(iv) Their assigned firearms.

(b) Commanders will also—

(1) Provide periodic refresher training to ensure continued proficiency and updated knowledge in these skills. (In-

clude applicable host nation requirements.)

(2) Require MPs with law enforcement duties to qualify yearly with their assigned handguns.

(3) Require interior guards to receive instructions regarding use of force. (Give periodic refresher training to ensure continued familiarity with regulations.)

(c) Requirements concerning use of the MP club and chemical aerosol irritant projectors apply only when these weapons are issued items or are carried on duty.

(d) FM 19-5 contains procedures and methods for using unarmed defense techniques and the MP club.

## PART 633—INDIVIDUAL REQUESTS FOR ACCESS OR AMENDMENT OF CID REPORTS OF INVESTIGATION

Sec.

633.11 Access to CID reports.

633.12 Amendment to CID reports.

633.13 Submission of requests.

AUTHORITY: Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012.

SOURCE: 44 FR 44156, July 27, 1979, unless otherwise noted.

### § 633.11 Access to CID reports.

All requests for access to CID reports made under the Privacy or Freedom of Information Acts will be processed in accordance with AR 340-21 and AR 340-17, respectively.

### § 633.12 Amendment to CID reports.

USACIDC reports of investigation (ROI) are exempt from the amendment provisions of the Privacy Act and AR 340-21. Requests for amendment will be considered only under the provisions of this regulation. Requests to amend USACIDC reports will be granted only if the individual submits new, relevant and material facts that are determined to warrant their inclusion in or revision of the ROI. The burden of proof is on the individual to substantiate the request. Requests to delete a person's name from the title block will be granted only if it is determined that there is not probable cause to believe that the individual committed the offense for which he or she is listed as a

## § 633.13

subject. It is emphasized that the decision to list a person's name in the title block of a USACIDC report of investigation is an investigative determination that is independent of whether or not subsequent judicial, nonjudicial or administrative action is taken against the individual. Within these parameters, any changes in the ROI rest within the sole discretion of the Commanding General. USACIDC, whose decision will constitute final action on behalf of the Secretary of the Army with respect to this regulation.

### § 633.13 Submission of requests.

Requests for access to or amendment of USACIDC investigative reports will be forwarded to Commander, USACIDC, ATTN: CIJA-RI, 5611 Columbia Pike, Falls Church, VA 22041.

## PART 634—MOTOR VEHICLE TRAFFIC SUPERVISION

### Subpart A—Introduction

Sec.

- 634.1 Purpose.
- 634.2 References.
- 634.3 Explanation of abbreviations and terms.
- 634.4 Responsibilities.
- 634.5 Program objectives.

### Subpart B—Driving Privileges

- 634.6 Requirements for driving privileges.
- 634.7 Stopping and inspecting personnel or vehicles.
- 634.8 Implied consent to blood, breath, or urine tests.
- 634.9 Implied consent to impoundment.
- 634.10 Suspension or revocation of driving privileges.
- 634.11 Administrative due process for suspensions and revocations.
- 634.12 Army administrative actions against intoxicated drivers.
- 634.13 Remedial driver training programs.
- 634.14 Alcohol and drug abuse programs.
- 634.15 Restoration of driving privileges on acquittal.
- 634.16 Restricted driving privileges or probation.
- 634.17 Extensions of suspensions and revocations.
- 634.18 Reciprocal State-military action.

### Subpart C—Motor Vehicle Registration

- 634.19 Registration policy.
- 634.20 Registration requirements.
- 634.21 Specifications for DD Form 2220.

## 32 CFR Ch. V (7-1-97 Edition)

- 634.22 Termination or denial of registration.
- 634.23 Specified consent to impoundment.

### Subpart D—Traffic Supervision

#### SECTION I—TRAFFIC PLANNING AND CODES

- 634.24 Traffic planning.
- 634.25 Installation traffic codes.

#### SECTION II—TRAFFIC LAW ENFORCEMENT

- 634.26 Traffic law enforcement principles.
- 634.27 Speed-measuring devices.
- 634.28 Traffic accident investigation.
- 634.29 Traffic accident investigation reports.
- 634.30 Traffic accident investigation report data.
- 634.31 Parking.
- 634.32 Traffic violation reports.

#### SECTION III—STANDARDS AND PROCEDURES FOR PROCESSING DRUNK DRIVERS

- 634.33 Training of law enforcement personnel.
- 634.34 Blood alcohol concentration standards.
- 634.35 Chemical testing policies and procedures.
- 634.36 Detection, apprehension, and testing of intoxicated drivers.
- 634.37 Voluntary breath and bodily fluid testing based on implied consent.
- 634.38 Involuntary extraction of bodily fluids in traffic cases.
- 634.39 Testing at the request of the apprehended person.
- 634.40 Preparation of sworn statement.

#### SECTION IV—OFF-INSTALLATION TRAFFIC ACTIVITIES

- 634.41 General.
- 634.42 Compliance with State laws.
- 634.43 Civil-military cooperative programs.

### Subpart E—Driving Records and the Traffic Point System

- 634.44 Driving records.
- 634.45 The traffic point system.
- 634.46 Point system application.
- 634.47 Point system procedures.
- 634.48 Disposition of driving records.

### Subpart F—Impounding Privately Owned Vehicles

- 634.49 General.
- 634.50 Standards for impoundment.
- 634.51 Towing and storage.
- 634.52 Procedures for impoundment.
- 634.53 Search incident to impoundment based on criminal activity.
- 634.54 Disposition of vehicles after impoundment.

#### APPENDIX A TO PART 634—REFERENCES

## Department of the Army, DoD

## § 634.4

APPENDIX B TO PART 634—NOTIFICATION OF  
STATE DRIVER'S LICENSE AGENCIES

APPENDIX C TO PART 634—DOD DIRECTIVE  
5525.4, ENFORCEMENT OF STATE LAWS ON  
DOD INSTALLATIONS

APPENDIX D TO PART 634—GLOSSARY

AUTHORITY: 10 U.S.C. 30112(g); 5 U.S.C. 2951;  
Pub. L. 89-564; 89-670; 91-605; and 93-87.

SOURCE: 56 FR 3930, Jan. 31, 1991, unless  
otherwise noted.

### Subpart A—Introduction

#### § 634.1 Purpose.

(a) This regulation sets policy, responsibilities, and procedures for motor vehicle traffic supervision on military installations in the continental United States (CONUS) and overseas areas. This includes but is not limited to the following:

(1) Granting, suspending, or revoking the privilege to operate a privately owned vehicle (POV).

(2) Registration of POVs.

(3) Administration of vehicle registration and driver performance records.

(4) Driver improvement programs.

(5) Police traffic supervision.

(6) Off-installation traffic activities.

(b) Commanders in overseas areas are authorized to modify these policies and procedures in the following instances:

(1) When dictated by host nation relationships, treaties, and agreements.

(2) When traffic operations under military supervision necessitate measures to safeguard and protect the morale, discipline, and good order in the Services.

#### § 634.2 References.

Required and related publications and prescribed and referenced forms are listed in appendix A.

#### § 634.3 Explanation of abbreviations and terms.

Abbreviations and special terms used in this regulation are explained in appendix D.

#### § 634.4 Responsibilities.

(a) *Departmental.* The Deputy Chief of Staff for Operations and Plans, Headquarters, Department of the Army (HQDA); Commander, Naval Security and Investigative Command U.S. Navy

(USN); Chief of Air Force Office of Security Police, Headquarters, U.S. Air Force (USAF); Deputy Chief of Staff, for Plans, Policies, and Operations, Headquarters, U.S. Marine Corps (USMC); and Staff Director, Office of Command Security, Headquarters, Defense Logistics Agency (DLA), will—

(1) Exercise staff supervision over programs for motor vehicle traffic supervision.

(2) Develop standard policies and procedures.

(3) Maintain liaison with interested staff agencies and other military departments on traffic supervision and establish working groups and committees.

(4) Maintain liaison with departmental safety personnel on traffic safety and accident reporting systems.

(5) Coordinate with national, regional, and State traffic officials and agencies, and actively participate in conferences and workshops sponsored by Government or private groups at the national level.

(6) Help organize and monitor police traffic supervision training.

(7) Maintain liaison with the Department of Transportation (DOT) and other Federal departments and agencies on the National Highway Safety Program Standards (NHSPS) and programs that apply to U.S. military traffic supervision.

(8) Participate in the national effort to reduce intoxicated driving.

(b) *All major commanders.* Major commanders of the Army, Navy, Air Force, Marine Corps, and DLA will—

(1) Manage traffic supervision in their commands.

(2) Cooperate with the support programs of State and regional highway traffic safety organizations.

(3) Coordinate regional traffic supervision activities with other major military commanders in assigned geographic areas of responsibility.

(4) Monitor agreements between installations and host State authorities for reciprocal reporting of suspension and revocation of driving privileges.

(5) Participate in State and regional efforts to reduce intoxicated driving.

(6) Establish awards and recognition programs to recognize successful installation efforts to eliminate intoxicated driving. Ensure that criteria for these awards are positive in nature and include more than just apprehensions for intoxicated driving.

(7) Modify policies and procedures when required by host nation treaties or agreements.

(c) *Major Army commanders.* Major Army commanders will ensure subordinate installations utilizing automated vehicle registration programs implement Vehicle Registration System-2 (VRS-2) when fielded.

(d) *Commanding General, U.S. Army Training and Doctrine Command (CG, TRADOC).* The CG, TRADOC will ensure that VRS-2 technical training for functional users is incorporated into service school instructional programs.

(e) *Installation or activity commander.* The installation or activity commander will—

(1) Establish an effective traffic supervision program.

(2) Cooperate with civil police agencies and other local government agencies or civil traffic organizations concerned with traffic supervision.

(3) Ensure that traffic supervision is properly integrated in the overall installation traffic safety program.

(4) Actively participate in Alcohol Safety Action Projects (ASAP) in neighboring communities.

(f) *Installation or activity law enforcement officer.* The installation or activity law enforcement officer will—

(1) Exercise overall staff responsibility for directing, regulating, and controlling traffic, and enforcing laws pertaining to traffic control.

(2) Perform traffic engineering functions at installations by conducting traffic control studies designed to obtain information on traffic problems and usage patterns.

(g) *Safety officer.* The safety officer will participate in and develop traffic accident prevention initiatives in support of the installation traffic safety program.

(h) *Facility engineer (public works officer at Navy installations).* The facility engineer or engineer officer, will—

(1) Perform that phase of engineering concerned with the planning, design,

construction, and maintenance of streets, highways, and abutting lands.

(2) Select, determine appropriate design, procure, construct, install, and maintain permanent traffic and parking control devices in coordination with the law enforcement officer and safety officer.

(3) Ensure that traffic signs, signals, and pavement markings conform to the standards in the current Manual on Uniform Traffic Control Devices for Streets and Highways.

(4) Ensure that planning, design, construction, and maintenance of streets and highways conform to the NHSPS as implemented by the Services.

(i) *Traffic engineer.* The traffic engineer, in close coordination with the law enforcement officer, will—

(1) Conduct formal traffic engineering studies.

(2) Apply traffic engineering measures, including traffic control devices, to reduce the number and severity of traffic accidents. (If there is no installation traffic engineer, installation commanders may request these services through channels from the Commander, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, VA 22041-5050.)

(j) *Army Alcohol and Drug Control Officer (ADCO).* The ADCO will provide treatment and education services to personnel with alcohol or drug abuse problems.

(k) *Navy Counseling and Assistance Center (CAAC) Directors.* These directors will—

(1) Supervise the alcohol/drug rehabilitation services to personnel with alcohol or drug abuse problems.

(2) Provide remedial/motivational education for all persons identified as alcohol or drug abusers who are evaluated as not dependent on alcohol or drugs and who have been referred to Level One rehabilitation by their commands.

(l) *Marine Corps Substance Abuse Program Officer.* This officer will provide alcohol/drug education, treatment, and rehabilitation services to personnel with alcohol/drug abuse problems.

## Department of the Army, DoD

## § 634.7

(m) *DLA Employee Assistance Program Officer*. This officer will provide alcohol/drug counseling and referral services to identified personnel with alcohol/drug abuse problems in accordance with procedures prescribed by the Chief, Staffing, Labor, and Employee Relations Division, Office of Civilian Personnel, HQ DLA.

### § 634.5 Program objectives.

The objectives of motor vehicle traffic supervision are to assure—

(a) Safe and efficient movement of personnel and vehicles.

(b) Reduction of traffic deaths, injuries, and property damage from traffic accidents. (Because most traffic accidents can be prevented, motor vehicle accidents should be examined in terms of the roadway conditions, environment, operator, vehicle, and the supervision and control measures involved.)

(c) Integration of installation safety, engineering, legal, medical, and law enforcement resources into the installation traffic planning process.

(d) Removal of intoxicated drivers from installation roadways followed by the expeditious application of appropriate sanctions.

## Subpart B—Driving Privileges

### § 634.6 Requirements for driving privileges.

(a) Driving a Government vehicle or POV on a military installation is a privilege granted by the installation commander. Persons who accept the privilege must—

(1) Comply with laws and regulations governing motor vehicle operations on the installation.

(2) Comply with installation registration requirements in subpart C if applicable.

(3) Possess, while operating a motor vehicle and produce on demand to law enforcement personnel, the following:

(i) Proof of vehicle ownership or State registration if required by the issuing State.

(ii) A valid State, overseas command, host nation, or international driver's license and/or OF 346 (U.S. Government Motor Vehicle Operator's Identification Card), as applicable, supported by a DD Form 2A (U.S. Armed Forces

Identification Card) or other identification for non-Department of Defense (DOD) civilians.

(iii) A valid record of motor vehicle safety inspection if required.

(b) Operators of Government motor vehicles must have proof of authorization to operate the vehicle.

### § 634.7 Stopping and inspecting personnel or vehicles.

(a) Military vehicles may be stopped by law enforcement personnel on military installations based on the installation commander's policy.

(1) In overseas areas, military vehicles may be stopped on or off installations as determined by host nation agreement and command policy.

(2) Stops and inspections of vehicles at installation gates or entry points and in restricted areas will be conducted according to separate Service policy.

(3) Stops and inspections of POVs within the military installation, other than at restricted areas or at an installation gate, are authorized only when there is a reasonable basis to believe the stop/inspection is necessary to enforce a traffic regulation or the stop is based on suspicion of criminal activity. (Army users, see AR 210-10. Marine Corps users, pending publication of a specific Marine Corps order, will be guided by Military Rules of evidence 311-316 and local command regulations. DLA users, see DLAR 5700.7.)

(b) At the time of stop, the driver and occupants may be required to display all pertinent documents, including but not limited to—

(1) DD Form 2A.

(2) Documents that establish the identity and status of civilians; for example, DD Form 1173 (Uniformed Services Identification and Privilege Card), DA Form 1602 (Civilian Identification), AF Form 354 (Civilian Identification Card), DLA Form 572 (Identification Card), DLA Form 1486 (Application for Identification Card), post pass, or national identity card.

(3) Proper POV registration documents.

(4) Host nation vehicle registration documents if applicable.

(5) Authorization to operate a U.S. Government vehicle if applicable.

(6) Drivers license or OF 346 valid for the particular vehicle and area of operation.

**§634.8 Implied consent to blood, breath, or urine tests.**

Persons accepting installation driving privileges shall be deemed to have given their consent to evidential tests for alcohol or other drug content of their blood, breath, and/or urine if lawfully stopped, apprehended, or cited for any offense allegedly committed while driving or in physical control of a motor vehicle on the installation while under the influence of intoxicants.

**§634.9 Implied consent to impoundment.**

Any person granted the privilege of operating a motor vehicle on an installation shall be deemed to have given his or her consent for the removal and temporary impoundment of the POV when it is parked illegally for unreasonable periods, interfering with operations, creating a safety hazard, disabled by accident, left unattended in a restricted or controlled area, or abandoned. Such persons further agree to reimburse the United States for the cost of towing and storage should their motor vehicle be removed or impounded. Existence of the conditions described above will be determined by the installation commander or designee.

**§634.10 Suspension or revocation of driving privileges.**

The installation commander (or designee not assigned primarily to law enforcement duties) may, for cause, administratively suspend or revoke driving privileges on the installation. The suspension or revocation of installation driving privileges or POV registrations, for lawful reasons unrelated to traffic violations or safe vehicle operation, is not limited or restricted by this regulation.

(a) *Suspension.* (1) Driving privileges are usually suspended when other measures have failed to improve a driver's performance. Measures should include counseling, remedial driving training, and rehabilitation programs. Driving privileges may also be suspended for up to 6 months if a driver

continually violates installation parking regulations. The commander will determine standards for suspension based on frequency of parking violations and publish those standards.

(2) The installation commander has discretionary power to withdraw the authorization of active duty military personnel, DOD civilian employees, and nonappropriated fund (NAF) employees to operate U.S. Government vehicles.

(3) Immediate suspension of installation or overseas command POV driving privileges pending resolution of an intoxicated driving incident is authorized for active duty military personnel, family members, retired members of the military services, DOD civilian personnel, and others with installation or overseas command driving privileges regardless of the geographic location of an intoxicated driving incident. Suspension is authorized for non-DOD affiliated civilians only with respect to incidents occurring on the installation or in areas subject to military traffic supervision. After a review of available evidence as specified in §634.11, installation driving privileges will be immediately suspended pending resolution of the intoxicated driving incident in the following circumstances;

(i) Refusal to take or complete a lawfully requested chemical test to determine contents of blood for alcohol or other drugs.

(ii) Operating a motor vehicle with a blood alcohol content (BAC) of 0.10 percent by volume or higher or in violation of the law of the jurisdiction that is being assimilated on the military installation.

(iii) Operating a motor vehicle with a BAC of at least 0.05 percent by volume but less than 0.10 percent blood alcohol by volume in violation of the law of the jurisdiction in which the vehicle is being operated if the jurisdiction imposes a suspension solely on the basis of the BAC level.

(iv) On an arrest report or other official documentation of the circumstances of an apprehension for intoxicated driving.

(b) *Revocation.* (1) The revocation of installation or overseas command POV driving privileges is a severe administrative measure to be exercised for serious moving violations or when other

available corrective actions fail to produce the desired driver improvement. Revocation of the driving privilege will be for a specific period, but never less than 6 months, applies at all military installations, and remains in effect on reassignment.

(2) Driving privileges are subject to revocation when an individual fails to comply with any of the conditions requisite to the granting of the privilege. (See §634.6.) Revocation of installation driving and registration privileges is authorized for military personnel, family members, civilian employees of DOD, and other individuals with installation driving privileges. For civilian guests, revocation is authorized only with respect to incidents occurring on the installation or in the areas subject to military traffic supervision.

(3) Driving privileges will be revoked for a mandatory period of not less than 1 year in the following circumstances:

(i) The installation commander or designee has determined that the person lawfully apprehended for intoxicated driving refused to submit to or complete a test to measure the alcohol content in the blood, or detect the presence of any other drug, as required by the law of the jurisdiction, installation traffic code, or by Service directive.

(ii) A conviction, nonjudicial punishment, or a military or civilian administrative action resulted in the suspension or revocation of a driver's license for intoxicated driving. Appropriate official documentation of such conviction is required as the basis for revocation.

(4) When temporary suspensions under §634.10(a)(3) are followed by revocations, the period of revocation is computed beginning from the date the original suspension was imposed, exclusive of any period during which full driving privileges may have been restored pending resolution of charges. (Example: privileges were initially suspended on 1 January 1996 for a charge of intoxicated driving with a blood alcohol content of 0.14 percent. A hearing was held, extreme family hardship was substantiated, and privileges were restored on 1 February pending resolution of the charge. On 10 March, the driver was convicted for intoxicated

driving. The mandatory 1-year revocation period will consist of January 1996 plus March 1996 through January 1997, for a total of 12 months with no installation driving privileges.)

#### **§634.11 Administrative due process for suspensions and revocations.**

(a) Individual Services will promulgate separate regulations establishing administrative due process procedures for suspension or revocation of driving privileges. The procedures in paragraphs (b) and (c) of this section apply to actions taken by Army commanders with respect to Army military personnel and family members and to civilian personnel operating motor vehicles on Army installations. For Marine Corps users, the provisions of this paragraph apply pending publication of a Marine Corps order addressing administrative due process.

(b) For offenses other than intoxicated driving, suspension or revocation of the installation driving privilege will not become effective until the installation commander or designee notifies the affected person and offers that person an administrative hearing. Suspension or revocation will take place 10 days after this written notice is received unless an application for a hearing is made by the affected person within this period. Such application will stay the pending suspension or revocation for a period of 10 days.

(1) If, due to action by the Government, a hearing is not held within 10 days, the suspension will not take place until such time as the person is granted a hearing and is notified of the action of the installation commander or designee. However, if the affected person requests that the hearing be continued to a date beyond the 10-day period, the suspension or revocation will become effective immediately on receipt of notice that the request for continuance has been granted.

(2) If it is determined as the result of a hearing to suspend or revoke the affected person's driving privilege, the suspension or revocation will become effective when the person receives the written notification of such action. In the event that written notification cannot be verified either through a returned receipt for mail or delivery